

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
ANDREA ROSSBACH,	:	
	:	19cv5758 (DLC)
Plaintiff,	:	
	:	<u>ORDER</u>
-v-	:	
	:	
MONTEFIORE MEDICAL CENTER, NORMAN	:	
MORALES, and PATRICIA VEINTEMILLA,	:	
	:	
Defendants.	:	
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DENISE COTE, District Judge:

On March 15, 2021, the defendants requested permission to file a motion to dismiss the remaining claims in this action with prejudice and to assess sanctions and costs against the plaintiff and her counsel, citing as a basis a forensic examination indicating that the plaintiff had produced fabricated evidence during discovery. An Order of March 15 required the plaintiff to notify the Court if she intended to engage an expert to assess the disputed documentary evidence. The plaintiff did so, and the parties filed their expert reports on April 16.<sup>1</sup> Meanwhile, on April 7, the plaintiff filed a

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<sup>1</sup> The plaintiff moved to file her request under seal, but the request was made in a manner that did not comply with the Southern District of New York ECF Rules and Instructions and this Court's Individual Practices. In an Order of April 19, 2021, the plaintiff was instructed to, by April 20 at 12:00 pm, submit a compliant motion to seal.

motion for sanctions against the defendants and their counsel, and in a letter of April 16, the defendants responded to the plaintiff's motion for sanctions. Accordingly, it is hereby

ORDERED that a hearing will be held on **April 22, 2021 at 2 pm**. The hearing shall conclude by 5 pm on April 22. Plaintiff Andrea Rossbach, plaintiff's expert Joseph Caruso, and defendants' expert Daniel L. Regard II shall testify at the hearing, in that order.

The Court proposes that the three witnesses shall be examined as follows over the course of 120 minutes, with the examinations by plaintiff's counsel lasting no longer than 60 minutes and the examinations by defense counsel lasting no longer than 60 minutes. Rossbach shall be subject to direct, cross and re-direct examination. The written declarations of Caruso and Regard shall constitute their direct testimony, and Caruso and Regard shall be subject to cross-examination and re-direct examination. The parties shall confer, and if they agree upon another proposal, advise the Court of that proposal by **April 21 at 12 pm**.

IT IS FURTHER ORDERED that the parties shall by **April 21 at 12 pm** submit to Chambers via email at [cotenysdchambers@nysd.uscourts.gov](mailto:cotenysdchambers@nysd.uscourts.gov) pre-marked copies of each exhibit that they intend to offer into evidence.

IT IS FURTHER ORDERED that the hearing shall proceed via the Microsoft Teams videoconference platform unless the parties jointly submit a request by **April 21 at 12 pm** for an in-person hearing. To access the hearing, paste the following link into your browser: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MzJhNDJjMjktZjZjMy00MWQ2LTg0MmYtMGY5MTgyZjViMGE0%40thread.v2/0?context=%7b%22Tid%22%3a%221d66f037-8266-4d1c-919c-67c6543d3542%22%2c%22Oid%22%3a%2220b3b4ec-1ef6-4484-88f4-2126fec52fa%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzJhNDJjMjktZjZjMy00MWQ2LTg0MmYtMGY5MTgyZjViMGE0%40thread.v2/0?context=%7b%22Tid%22%3a%221d66f037-8266-4d1c-919c-67c6543d3542%22%2c%22Oid%22%3a%2220b3b4ec-1ef6-4484-88f4-2126fec52fa%22%7d)

To use this link, you may need to download software to use the platform's videoconferencing features.<sup>2</sup> The link in this order is currently live. **Participants are directed to test their videoconference setup in advance of the hearing -- including their ability to access the link and to use Teams to examine witnesses by presenting them with documents.**

Participants shall report any difficulties accessing the link to Chambers **no later than 24 hours** in advance of the hearing so that Chambers may assist the parties.

Users who are unable to download the Microsoft Teams application may access the meeting through an internet browser,

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<sup>2</sup> See Microsoft, Download Microsoft Teams (last visited Dec. 7, 2020), <https://www.microsoft.com/en-us/microsoft-365/microsoft-teams/download-app>.

although downloading the Teams application is highly recommended.<sup>3</sup> If the participant is using an internet browser, it is recommended to use either **Microsoft Edge** or **Google Chrome** as Teams is not fully compatible with other browsers. Participants should also ensure that their webcam, microphone, and headset or speakers are all properly configured to work with Microsoft Teams. For general guidelines for participation in remote conferences, visit <https://nysd.uscourts.gov/covid-19-coronavirus>.

IT IS FURTHER ORDERED that members of the press, public, or counsel who are unable to successfully access Microsoft Teams may access the hearing's audio using the following credentials:

Call-in number:	917-933-2166
Conference ID:	447 874 92#


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<sup>3</sup> Please note that participants who access the Teams meeting using an internet browser may only be able to view one participant at a time.

IT IS FURTHER ORDERED that, if the record permits, at the conclusion of the hearing the Court will make findings of fact and rule on the defendants' request to file a motion to dismiss and for sanctions and on the plaintiff's motion for sanctions.

SO ORDERED:

Dated: New York, New York  
April 19, 2021

  
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DENISE COTE  
United States District Judge